

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE MAY 11, 2004

SENATE BILL

No. 1368

Introduced by Senator Ortiz

February 18, 2004

An act to add Section 415.35 to the Code of Civil Procedure, relating to service of process.

LEGISLATIVE COUNSEL'S DIGEST

SB 1368, as amended, Ortiz. Substitute service of process: insurers.

Existing law provides for service of process in civil actions and proceedings by personal service or, in certain circumstances, by substitute service.

This bill would authorize substitute service upon a party's insurer, under specified circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 415.35 is added to the Code of Civil
2 Procedure, to read:
3 415.35. (a) If an insurer has ~~accepted coverage for a loss~~
4 *acknowledged the claim and has not denied coverage on the loss*,
5 in lieu of personal service on a party who is insured, a copy of the
6 summons and complaint may be served by a substituted service of
7 process upon the defendant's insurer with the agent for process

1 designated by the insurer with the Secretary of State as provided
2 in subdivision (b) of Section 1502 of the Corporations Code.
3 Substitute service of process shall be effected by delivering a copy
4 of the summons and of the complaint to the person who is
5 apparently in charge of the office, during the usual hours of the
6 office, ~~or~~ and by mailing a copy of the summons and of the
7 complaint, by registered mail, return receipt requested, addressed
8 to the person to be served at the address of the insurer where a copy
9 of the summons and of the complaint could have been delivered.
10 The insurer shall request that the insured authorize the insurer to
11 accept service of process on his or her behalf within five days of
12 receipt of substitute service of process. The insurer's notice to the
13 insured shall *be clear and conspicuous printed in no less than*
14 *14-point type, and shall, in easily understood language,* advise the
15 insured that if he or she declines to authorize the insurer to accept
16 service, he or she may be served personally at home, or at his or
17 her place of business, and that the insurer will be obligated by law
18 to provide the plaintiff with the insured's last known address,
19 *subject to any limits determined by a court pursuant to subdivision*
20 *(c) of Section 2017 of the Code of Civil Procedure. The notice shall*
21 *explain to the insured how to ask a court to limit release of his or*
22 *her address.*

23 (b) If the insured authorizes the insurer to accept service on his
24 or her behalf, the insurer shall respond to the complaint on behalf
25 of the insured within 30 days of the authorization. If the insured
26 does not respond to the request or does not authorize the insurer
27 to accept service on his or her behalf within 30 days of the request
28 for authorization, the insurer shall, *subject to any limit to the*
29 *release of address sought by the insured pursuant to subdivision*
30 *(a),* immediately notify the plaintiff of that fact and provide the
31 plaintiff with the last known address of the insured.

32 (c) *Nothing in this section shall affect any policy defenses that*
33 *may exist as between the insured and the insurer.*

